

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNILOC 2017 LLC

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. 2:18-cv-00493-JRP-RSP

Case No. 2:18-cv-00497-JRG-RSP

Case No. 2:18-cv-00503-JRG-RSP

**FILED UNDER SEAL PURSUANT
TO PROTECTIVE ORDER**

**DEFENDANT GOOGLE LLC'S REPLY IN SUPPORT OF ITS MOTION
FOR FEES AND COSTS PURSUANT TO 28 U.S.C. § 1927**

Uniloc’s Opposition to Google’s Motion for Fees and Costs Pursuant to 28 U.S.C. § 1927 (“1927 Opposition”) confirms that Uniloc “unreasonably and vexatiously” multiplied the proceedings in each of the Dismissed Cases, which warrants an award of sanctions.

A. Uniloc Filed and Maintained Implausible, Bad Faith Infringement Claims

Uniloc’s 1927 Opposition (Dkt. 306)¹ consists of self-serving assertions that conflict with the facts of the Dismissed Cases. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Uniloc says [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ Docket citations are to the 503 case unless noted otherwise.

B. Uniloc Unreasonably Prolonged Litigation by Delaying Source Code Review

Uniloc's delays in reviewing source code further extended this litigation unreasonably and unnecessarily. Reviewing source code was key to these cases, but Uniloc did not do so until May 26, 2020—*over ten months* after Google made its source code available on July 15, 2019.

Dkt. 299 at 4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Uniloc also attempts to avoid sanctions by accusing Google of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

² Google produced over 24,000 pages of documents on July 15, 2019, and completed over 85% of its total production by November 25, 2019. *E.g.*, Dkt. 230 at 4. [REDACTED]

[REDACTED]

[REDACTED]

Google provided source code that proved non-infringement. Throughout the Dismissed Cases, Uniloc never challenged what Google said about how its code production proved non-infringement. Uniloc’s argument that yet more should have been produced should be seen for what it is—an excuse to engage in meritless litigation as long as possible. Uniloc simply ignored the source code available to it, pursuing a “head-in-the-sand approach” that warrants sanctions under § 1927. *See, e.g., Fred A. Smith Lumber Co. v. Edidin*, 845 F.2d 750, 753 (7th Cir. 1988).

C. Uniloc's Unreasonable Ignorance of Google's Document Productions Is No Defense to Sanctions

D. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Uniloc also selectively points to the prior conduct of Uniloc 2017 and predecessor Uniloc entities to distinguish *Electronic Communication Technologies, LLC v. ShoppersChoice.com, LLC*, 963 F.3d 1371 (Fed. Cir. 2020), but this too misses the mark. Dkt. 306 at 10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. [REDACTED], [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]; *Eon-Net LP v. Flagstar Bancorp*,
653 F.3d 1314, 1327 (Fed. Cir. 2011) (characterizing \$75,000 as “a nuisance value settlement”).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

E. [REDACTED]
[REDACTED]

T [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Accordingly, sanctions under Section 1927 are appropriate, and the Etheridge firm should be jointly and severally liable for Google’s attorney fees and non-taxable costs as set forth in each of Google’s Fee Motions.

³ Citations to the “Lee Decl.” refer to the Declaration of Nicholas H. Lee in Support of Defendant Google LLC’s Reply in Support of Its Motion for Fees and Costs Pursuant to 28 U.S.C. § 1927, filed concurrently herewith. Citations to “Ex. __” are to the exhibits attached to the Lee Decl. unless noted otherwise.

Dated: September 9, 2020

Respectfully submitted,

/s/ Robert Unikel with permission, by
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CERTIFICATE OF AUTHORIZATION TO FILE UNDER SEAL

I hereby certify that the foregoing document and all supporting declarations and exhibits thereto are being filed under seal pursuant to the terms of the Protective Order.

/s/ Michael E. Jones
Michael E. Jones

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via electronic mail on September 9, 2020.

I also hereby certify that all counsel of record who have consented to electronic service are being served with a notice of filing of this document, under seal, pursuant to L.R. CV-5(a)(7) on September 9, 2020.

/s/ Michael E. Jones
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